

REMARKS

Applicants respectfully requests reconsideration of the present application in view of the reasons that follow.

Claims 13-19 and 34 remain pending in this application.

Claim Rejections under 35 U.S.C. § 103

Claims 13-19 and 34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2004/0218341 ("Martin") in view of U.S. Patent No. 6,774,719 ("Wessel"). In response, Applicants traverse the rejection for the reasons set forth below.

Applicants rely on 35 U.S.C. § 103(c), which states, "(1) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person."

First, the Patent Office asserted that Martin qualifies as "prior art" under 35 U.S.C. § 102(e). *See* Office Action mailed on July 10, 2007 at p. 2. Second, as noted in Applicants' Amendment and Reply filed on October 10, 2007, Martin (US Application No. 10/428,168) and the present application (US Application No. 10/782,593) were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person. This statement by the attorney/agent of record is by itself sufficient evidence. *See* "Guidelines Setting Forth a Modified Policy Concerning the Evidence of Common Ownership, or an Obligation of Assignment to the Same Person, as Required by 35 U.S.C. 103(c)," 1241 OG 96 (Dec. 26, 2000). In addition, Applicants direct the Examiner's attention to the Patent Assignment Abstract of Title documents obtained from the USPTO website and attached to this document as Appendix A. An assignment of Martin to Hewlett Packard Development Company L.P., was recorded on August 21, 2003. *See* Reel/Frame 014408/0573. An assignment of the present application to Hewlett Packard Development Company was recorded on February 18, 2004. *See* Reel/Frame 015013/0970.

Accordingly, because (1) Martin qualifies as "prior art" under 35 U.S.C. § 102(e) and (2) both Martin and the present application were owned by the same person or subject to an obligation of assignment to the same person at the time the invention was made, Martin can not preclude patentability of the present application under 35 U.S.C. § 103. Thus, the rejection of claims 13-19 and 34 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Martin in view of Wessel is improper and should be withdrawn.

Conclusion

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 C.F.R. § 1.25. Additionally, charge any fees to Deposit Account 08-2025 under 37 C.F.R. § 1.16 through § 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

Respectfully submitted,

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